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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Jacqueline Scott Corley, Magistrate Judge

IN RE FACEBOOK, INC., CONSUMER)
PRIVACY USER PROFILE)
LITIGATION.)

NO. 18-md-02843 VC (JSC)

San Francisco, California
Tuesday, April 27, 2021

TRANSCRIPT OF PROCEEDINGS BY ZOOM WEBINAR

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Official Reporter

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Also Present:

Judge Gail Andler, JAMS
Discovery Mediator
Daniel Garrie, JAMS

Tuesday - April 27, 2021

8:35 a.m.

P R O C E E D I N G S

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THE CLERK: Calling Civil action 3:18-md-2843, In Re Facebook, Inc., Consumer Privacy User Profile Litigation.

And we don't need your appearances so you can start, Judge.

THE COURT: All right. Good morning, everyone. Thank you for your status update. I can safely say it's my favorite status update of the case this far.

So, Judge Andler, you work I'm not going to say miracles, but thank you for working so well with the parties.

JUDGE ANDLER: That's why I put the champagne up there for you.

THE COURT: Oh, now I understand what you're doing.

So what would you like to update me on and how can I help the parties continue to move the case forward?

JUDGE ANDLER: May I just introduce to you, because you haven't met him yet, Mr. Daniel Garrie, who is appearing for the first time. He is my colleague at JAMS and he is also assisting in the mediation of these discovery disputes. I think the attorneys will let you know he's been invaluable.

THE COURT: Yes. Thank you. Welcome, Mr. Garrie.

MR. GARRIE: Thank you for the honor and opportunity.

THE COURT: That's good. Somebody who knows what

1 you're talking about.

2 All right. Mr. Loeser, would you like to start?

3 **MR. LOESER:** Sure, Your Honor.

4 We think it's perhaps our favorite joint status report as
5 well. I think we're very pleased with the process. And, you
6 know, it's just underway and the champagne bottles are
7 hopefully something that we'll be seeing a lot of behind
8 Judge Andler. We're working through issues.

9 We have an idea we've mentioned before for tracking the
10 issues that we're going to discuss with the parties and with
11 Judge Andler, sort of a tracking chart that identifies the
12 issue and when it was raised; and I think that's probably a
13 good way going forward for us to keep track of our progress and
14 for us to show you the progress along the way.

15 But really nothing much other than that. We're happy that
16 this process has started and we thank you for suggesting it.

17 **THE COURT:** Great. You guys could be a model and
18 Judge Andler can be a model of sort of a new way with these
19 large cases of getting some assistance.

20 Does Facebook have any update?

21 **MR. SNYDER:** Just to echo counsel's assessment, very
22 productive. We're thrilled. We were as delighted as you to
23 submit a first truly joint status report as you were to receive
24 it I can tell you.

25 Maybe Congress will amend the federal rules and mandate in

1 certain cases binding or nonbinding mediation to resolve
2 disputes to lessen the caseload for overworked judges, but hope
3 springs eternal.

4 The only -- so we're delighted and look forward to it. I
5 don't want to say it's been fun, but it's been certainly an
6 improvement over what existed before vastly so we want to thank
7 Judge Andler very much and Your Honor.

8 The one substantive suggestion we have is that once we
9 work through the current items on the agenda that Judge Andler
10 has set, we would want to discuss with Judge Andler, and then
11 provide to Your Honor hopefully, a schedule for the case.
12 There is no schedule in place, which makes it somewhat
13 difficult for the case to move forward.

14 And we provided plaintiffs a proposed schedule at the
15 beginning of the month, so perhaps we can add that to our
16 agenda and then look forward to presenting a schedule to
17 Your Honor at some point when we know what we're shooting for.
18 I think that will be helpful also in the mediation process as
19 well.

20 **THE COURT:** So Judge Chhabria did mention to me that
21 he thought he hadn't seen you in a while and that maybe he
22 should schedule a CMC. Is it your thought maybe that you
23 should work with Judge Andler, come up with a schedule, and
24 maybe that should also include a time frame, not exact date, as
25 a CMC before Judge Chhabria? And I can let him know before he

1 unilaterally then sets something. Does that make sense?

2 **MR. SNYDER:** That would be great from Facebook's point
3 of view, yes.

4 **THE COURT:** And how about for the plaintiffs?

5 **MS. WEAVER:** And we agree.

6 **THE COURT:** Okay.

7 **MS. WEAVER:** That sounds good.

8 **THE COURT:** All right. I think the great thing about
9 what Mr. Garrie and Judge Andler are doing is not to reduce the
10 workload of the judiciary, it's to give the parties sort of the
11 attention that a case of this size I think deserves, regardless
12 of workload, that a judge just can't give; and you get someone
13 like Mr. Garrie who actually can get in there and understand
14 and, therefore, help the parties work through. I think that's
15 the advantage.

16 Actually, now in one of the other MDLs that I'm helping
17 with, they've appointed a retired judge to help them with
18 respect to depositions because they were squabbling a bit about
19 what was happening at depositions. I said, "I can't be there
20 all day. Why don't you do this?" And so I'm hopeful that that
21 will work as well.

22 I want to add one other thing to the agenda -- I don't
23 know if this is something you could work out or not -- and
24 that's the motion that's being briefed right now on the
25 confidential document that was leaked and whether the

1 plaintiffs have to keep it confidential or not in this
2 litigation. I would like you to discuss that.

3 It does seem to me that that sort of issue is somewhat
4 tangential to the litigation and may be something that
5 Judge Andler can help you work out. If not, I'm happy to
6 decide it, but if you could just add that to your agenda.

7 **MS. CLARK:** Your Honor, we're happy to do that. I
8 would just ask: Facebook currently has a reply brief due I
9 believe this Friday. Would you prefer for us, then, to not
10 file that brief in the meantime while we work with Judge Andler
11 on the issue?

12 **THE COURT:** I don't have a preference. Whatever
13 the -- are the plaintiffs okay with putting that off? I mean,
14 there's no urgency, I don't think, to the matter, is there?

15 **MR. LOESER:** We're fine with your suggestion,
16 Your Honor.

17 **THE COURT:** Okay. All right.

18 **MS. CLARK:** Okay.

19 **THE COURT:** Sure, Ms. Kutscher Clark, why don't you
20 just not do that work.

21 **MS. CLARK:** Okay.

22 **THE COURT:** Focus on producing documents instead.

23 **MS. CLARK:** Okay.

24 **THE COURT:** And --

25 **MS. CLARK:** We will do that. Thank you.

1 **THE COURT:** And if you can't work it out, you can let
2 me know and then when you're going to file your reply brief.

3 **MS. CLARK:** All right. Thank you very much.

4 **THE COURT:** Okay. The next matter is just when you
5 would like to get together again. I know you're meeting with
6 Mr. Garrie and Judge Andler on April 30th.

7 **MR. SNYDER:** Yes.

8 **THE COURT:** So what do you think would be a good time
9 for us to check in?

10 **MR. SNYDER:** I would say maybe the week of May 17th.
11 Does that make sense?

12 **THE COURT:** Yeah. I'm actually starting, if you can
13 believe it, an in-person jury trial on May 20th so perhaps --
14 Ms. Means, can we do May 18th at 8:30?

15 **THE CLERK:** Sure.

16 **THE COURT:** Okay. We'll do May 18th at 8:30.

17 **MR. LOESER:** And for those of us who grew up in the
18 northwest, that's the day Mount St. Helens erupted.

19 **THE COURT:** That's so funny. My son about three weeks
20 ago hiked up and skied down Mount St. Helens.

21 **MS. WEAVER:** Impressive.

22 **MR. LOESER:** Beautiful place, changed as it is.

23 **THE COURT:** Great. All right. Well, thank you so
24 much, everyone, for working with Judge Andler, Mr. Garrie.

25 And, Judge Andler and Mr. Garrie, thank you for really

1 helping the parties move this litigation along.

2 **JUDGE ANDLER:** Thank you for the opportunity to be of
3 assistance.

4 I'll just ask that counsel please send me the briefs on
5 the matter that's been added to our agenda.

6 **THE COURT:** All right. We'll see you May 18th at
7 8:30.

8 **MR. SNYDER:** Thanks, everyone.

9 **ALL:** Thank you, Your Honor.

10 **THE COURT:** Take care. Bye-bye.

11 **JUDGE ANDLER:** Bye-bye.

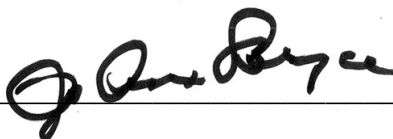
12 (Proceedings adjourned at 8:43 a.m.)

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15 **CERTIFICATE OF REPORTER**

16 I certify that the foregoing is a correct transcript
17 from the record of proceedings in the above-entitled matter.

18
19 DATE: Wednesday, April 28, 2021

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25 Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR
U.S. Court Reporter